IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE SECOND DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE N.V. RAMANA

WRIT PETITION NO : 2423 of 1998

Between:

1 Madavi Bheemu, s/o. Bheer Saheb,
R/o. Devapoor (V), Kasipet(M),
AdilabadDist.
2 Madavi Jangu, s/o. Mangu,
R/o. Devapoor (V), Kasipet(M),
AdilabadDist.
3 Madavi Chandu, (Died
R/o. Devapoor (V), Kasipet(M),
AdilabadDist.
4 Junaka Bojju, s/o. Monu,
R/o. Devapoor (V), Kasipet(M),
AdilabadDist.
5 Madavi Arju,(died)
R/o. Devapoor (V), Kasipet(M),
AdilabadDist.
6 Madavi Raju(Died)
R/o. Devapoor (V), Kasipet(M),
AdilabadDist.
7 Marapa Maru, S/o. Laxmu,
R/o. Devapoor (V), Kasipet(M),
AdilabadDist.

..... PETITIONER(S)

AND

1 The Dist.Collector,Adilabad, Adilabad dist.
2 The Special Deputy Collector (Tribla welfare), Utnoor Mandal,Adilabad Dist.
3 The Revenue Divisional Officer,Mancherial, Adilabad dist.
4 The Mandal Revenue Officer,Kasipet(M), Adilabad dist.
5 Orient Cement Company, rep.by it's Executive Vice President,Devapoor,Kasipet Mandal,
Adilabad dist.

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ ,order or direction more particularly one in the nature of Writ of Mandamus declaring the action of the 5th respondent in not providing employment on permanent basis to the petitioners herein or their nominees as illegal, arbitrary and without jurisdiction; ii) declaring of the respondents herein in not paying the compensation under the Land Acquisition Act for the lands acquired by the 5th respondent to provide compensation under the Land Acquisition Act for the lands lost by the petitioners and pass.

For the Petitioner: MR.G.VIDYASAGAR, Advocate.

For the Respondent Nos.1to 4: GP FOR LAND ACQUISITION

For the Respondent No.5: Mr.K.Srinivas Murthy,Advocate.

The Court Made the Following :

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THE HONOURABLE SRI JUSTICE N.V.RAMANA

WRIT PETITION NO.2423 OF 1998

ORDER:

This writ petition is filed challenging the action of the 5th respondent in not providing employment on permanent basis to the petitioners herein and the action of the

respondents herein in not paying the compensation under the Land Acquisition Act for the lands acquired by the 5th respondent and for a consequential direction to the 5th respondent to provide employment to the petitioners or their nominees and also to pay compensation under the Land Acquisition Act for the lands lost by the petitioners.

The petitioners claim that they are owners of small extents of land in Survey No.84 of Devapur village and that the fifth respondent-Orient Cement Company has taken about Ac.8.00 guntas of the subject land for construction of Jack Well and Pipe lines. The grievance of the petitioners is that the respondents have not paid compensation and no acquisition proceedings were initiated. As per the Memo No.81/ID/81-2 dated 07-07-1981 issued by the Government, the fifth respondent entered into an agreement with the first respondent agreeing to provide employment to at least one member of the displaced family and also proposed a definite plan for employing the local tribals in at least
semi-skilled jobs and immediately take up adequate training programme for them. Physical inspection for assessment of the land was effected in 1992 and the 4th respondent vide his proceedings No.D/946/94 dated 13.11.1995 addressed a letter to the 3rd respondent and marked copy to respondents 2 and 3 and no further action has been taken in the matter. Hence, the Writ Petition.

Pursuant to the notices issued by this Court the third and firth respondents filed counter affidavits in the matter. In the counter affidavit filed by the third respondent, it is admitted that the petitioners are assignees of the land in Survey No.84 of Devapur. However, the averment that their land was acquired by the fifth respondent was denied and it is stated that the fifth respondent has not filed any requisition for acquisition of the subject land and the payment of compensation does not arise. However, it is admitted that the fifth respondent has entered into an agreement with the Government to provide employment to one member of displaced families.

The fifth respondent also filed counter affidavit admitting that it was agreed to provide employment to atleast one member of the displaced family in the proposed factory. It is also stated that the District Collector who is the final authority has furnished the names of the members of the displaced families and the said persons were appointed in the 5th respondent factory. It is specifically stated that the jackwells are constructed in the stream with the permission of the Irrigation

Department vide proceedings dated 3-5-1983 and letter dated 6-4-1988 and drawing the water from the Peddavagu stream through the jackwells by paying cess regularly to the Irrigation Department. It is specifically stated that none has been displaced by virtue of constructing the jackwells in the stream and the petitioners do not come within the purview of the notification issued by the Government dated 7-7-1981 for providing jobs to the displaced persons.

Since, both the third respondent and 5th respondent took a specific stand that the petitioners land was not acquired and petitioners are not displaced, the contention of the petitioners of violation of memo dated 7-7-1981 and agreement said to have been entered into between first respondent and fifth respondent cannot be accepted. In the absence of acquisition of land, the question of providing employment or payment of compensation does not arise.

For the fore going reasons, the writ petition fails and the same is dismissed. No costs.

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N.V.RAMANA, J

2-7-2004

MDAA/TVK

Copy to:

1 The Dist.Collector,Adilabad, Adilabad dist.
2 The Special Deputy Collector (Tribla welfare), Utnoor Mandal,Adilabad Dist.
3 The Revenue Divisional Officer,Mancherial, Adilabad dist.
4 The Mandal Revenue Officer,Kasipet(M), Adilabad dist.
5. Two C.Cs. to G.P.for Land Acquisition, High Court of A.P., Hyderabad (OUT)

6. Two C.D.Copies.